IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO. 64 OF 2005

Basha Hanif Shaikh & ors. ... Appellants.
Versus.
Abbas Valli Shaikh. ... Respondent.

Shri H.A.Solkar for the Appellants.

Shri I.M.Khairdi for the Respondent.

CORAM : ABHAY S. OKA, J.

DATED : 2nd February, 2005.

P.C.:

1. This Second Appeal is preferred by the unsuccessful Defendant challenging the Judgment of the Appellate Court as well as the Judgment of the trial Court by which exclusive title of the Respondent has been upheld.

2. The case of the Appellant is that though father of the Respondent/Plaintiff Valli and father of the Defendant No.1 Hanif purchased the suit land by a registered sale deed in the year 1945, while purchasing the property only the name of Valli was mentioned as the purchaser.

3. The Appellant No.1 claims that the property was jointly purchased by his father Hanif and Valli in the year 1945. Reliance is placed by the Appellants on the revenue entry by which name of Appellant No.1/Plaintiff No.1 is mutated in the revenue records after the demise

of Hanif.

4. There is a finding of fact recorded that from the year 1945 till death of the father of the Appellant No.1 in the year 1978, the father of the Appellant No.1 never asserted his right, title and interest in the suit property and his name was never mutated in the revenue records. The Appellant No.1, therefore, cannot claim title on the basis of the mutation entry made after the demise of his father Hanif.

5. There are concurrent findings of fact recorded by the Courts below. The Courts have found that the Respondent's father was the exclusive owner of the property in dispute. No substantial question of law arises in the Second Appeal. The Second Appeal is dismissed with no order as to costs.

Judge.